

**STATE OF MICHIGAN**  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**OFFICE OF FINANCIAL AND INSURANCE REGULATION**  
**Before the Commissioner of Financial and Insurance Regulation**

**In the matter of**

**XXXXX**

**Petitioner**

**File No. 119038-001**

**v**

**Blue Cross Blue Shield of Michigan**  
**Respondent**

---

**Issued and entered**  
**this 20th day of June 2011**  
**by R. Kevin Clinton**  
**Commissioner**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On January 13, 2011, XXXXX, authorized representative of his adult daughter XXXXX (Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner reviewed the request and accepted it on January 21, 2011.

The Commissioner notified Blue Cross Blue Shield of Michigan (BCBSM) of the external review and requested the information used in making its adverse determination. The Commissioner received BCBSM's response on February 1, 2011.

The case involves medical issues. Pursuant to MCL 550.1911(6), the Commissioner assigned the matter to an independent review organization, which submitted its analysis to the Commissioner on February 4, 2011.

**II. FACTUAL BACKGROUND**

The Petitioner receives health care benefits as an eligible dependent under her father's group health plan through the Michigan Education Special Services Association (MESSA), a BCBSM-underwritten group. The benefits are defined in the *MESSA Choices II Group Insur-*

*ance for School Employees* certificate of coverage.

On July 22, 2009, while dining at a restaurant, the Petitioner fainted. She was unconscious for several minutes and required emergency medical assistance that resulted in short-term hospitalization. The Petitioner fractured her mandible and several teeth. Tooth #26 required placement of a porcelain veneer to repair the fracture. The charge for the veneer totaled \$1,200. BCBSM denied coverage, saying the treatment was not a benefit under the certificate.

The Petitioner appealed BCBSM's decision. BCBSM held a managerial-level conference on November 4, 2010, and issued a final adverse determination dated November 15, 2010, upholding the denial.

### III. ISSUE

Is BCBSM required to provide coverage for the porcelain veneer that was placed on tooth #26?

### IV. ANALYSIS

#### Petitioner's Argument

The Petitioner argues that her dental fractures were not caused by poor dental hygiene, but were a direct result of an accidental injury. Petitioner also maintains that the porcelain to repair the fracture on tooth #26 was a medical necessity and was not cosmetic in nature.

The Petitioner believes that the porcelain veneer placed on January 4, 2010 is a covered benefit under her MESSA medical coverage and BCBSM is required to pay for it.

#### BCBSM's Argument

In its November 15, 2010 final determination BCBSM denied the veneer stating in part:

We are unable to allow payment for the veneer placed on tooth 26, because it is not a benefit of your contract.

\* \* \*

Coverage for dental treatment required due to an accidental injury includes emergency treatment and dental services routinely covered by MESSA. Under MESSA's guidelines, however, veneers are always considered cosmetic in nature and are never covered even when a sound natural tooth is damaged in an accidental injury. As a result, the denial of payment is appropriate.

### Commissioner's Review

Petitioner's MESSA coverage includes limited dental services. Section 8 of the certificate of coverage describes the available benefit:

Dental treatment by a licensed dentist or dental surgeon required because of an accidental injury to sound natural teeth sustained while covered by this plan and only if coverage has been continuous since the date of the accidental injury.

In contrast, MESSA's "internal benefit administration guidelines" denies coverage for dental veneers because they are deemed "cosmetic" without regard to whether the treatment is necessitated by an accidental injury. In the case of such inconsistency, it is the certificate of coverage which controls the coverage decision, not the administrative guideline (which is not a part of the contract between MESSA/BCBSM and the subscriber). Therefore, based on Section 8 of the certificate, MESSA/BCBSM is obligated to provide coverage for dental treatment "required because of an accidental injury."

Such coverage, however, is dependent on the treatment being medically necessary. The question of whether the treatment in question was medically necessary was presented to an independent medical review organization (IRO) for analysis. The IRO reviewer assigned to this case is a doctor of dental medicine in active practice. The reviewer is a member of the American Dental Society and the Academy of General Dentistry. The IRO reviewer provided the following analysis and conclusion:

#### **Clinical Rational for the Decision:**

Using veneers is a long accepted technique to restore fractured teeth. The current peer reviewed literature clearly supports this practice.

Using bonded porcelain strengthens the involved tooth making it the restoration of choice. [Citations omitted]

BCBS of MI's position as the administrator of MESSA's plan states, "Veneers are always considered cosmetic and should be denied as a benefit under all plans. They are never covered not even if a sound natural tooth is damaged in an injury." On the other hand, the certificate of coverage states dental services are covered when required due to "an accidental injury to sound natural teeth sustained by this plan and only if coverage has been continuous."

In this enrollee's case, the standard of care in dentistry for the enrollee is to restore a fractured tooth with a bonded porcelain restoration, or in lay terms, a veneer. The assumption by BCBS of MI that all veneers are for cosmetic purposes is erroneous and is not in keeping with the expected standards of care in the dental community.

**Recommendation**

It is the recommendation of this reviewer that the denial issued by Blue Cross Blue Shield of Michigan for the porcelain veneer for tooth #26 be overturned.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO recommendation is afforded deference by the Commissioner; in a decision to uphold or reverse an adverse determination the Commissioner must cite "the principal reason or reasons why the Commissioner did not follow the assigned independent review organization's recommendation" MCL 550.1911(16)(b). The IRO's analysis is based on extensive expertise and professional judgment. The Commissioner can discern no reason why that judgment should be rejected in the present case.

The Commissioner therefore finds that BCBSM's denial is not consistent with the terms of the certificate of coverage.

**V. ORDER**

The Commissioner reverses BCBSM's November 15, 2010, final adverse determination. BCBSM is required to provide coverage for the veneer Petitioner received January 4, 2010 on tooth #26. BCBSM shall provide coverage for dental services related to Petitioner's tooth #26 within 60 days of the date of this Order and shall, within seven days of providing coverage, provide the Commissioner with proof it has implemented this Order.

To enforce this Order, the Petitioner may report any complaint regarding implementation to the Office of Financial and Insurance Regulation, Health Plans Division, toll free (877) 999-6442.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than 60 days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.

---

R. Kevin Clinton  
Commissioner